



02 APR 2007

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Syosset, NY 11791

In re Application of  
Marrero Miragaya et al.  
Application No.: 10/540,296  
PCT No.: PCT/CU03/00020  
Int. Filing Date: 22 December 2003  
Priority Date: 27 December 2002  
Attorney Docket No.: 976-28 PCT/US  
For: Formulations For The Rectal Administration  
Of Thrombolytically-Active Agents

DECISION

ON

PETITION

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 12 March 2007.

### DISCUSSION

In a Decision mailed on 08 January 2007, the petition under 37 CFR 1.47(a) filed on 20 January 2006 was dismissed without prejudice because, regarding requirement (2),

The petition states that the "pertinent facts are recounted in the accompanying 'Declaration' signed by Dr. Sonia Gonzalez Blanco." In her Declaration, Dr. Gonzalez Blanco (hereinafter, "Blanco") states that she sent a letter to Milesa Yeni Sarmiento Mayea (hereinafter, "Mayea") at her last known address, requesting her appearance at the Patents Department of the Genetic Engineering and Biotechnology Center to execute a declaration, but that the letter subsequently was returned by the Cuban Postal Service with markings indicating that Ms. Mayea had "Moved, Left No Forwarding Address." Dr. Blanco further states that she conducted an internet search "using the Google search engine" to perform a search "in English" for "Milesa Yeni Sarmiento," but that the search "did not locate Milesa Yeni Sarmiento."

It is not clear from the record whether any further efforts were made to locate Ms. Mayea and, if not, why not. For instance, was a search performed using the "Mayea" portion of her name? Was a search performed using Spanish as the operative language, or using a different search engine? Was a telephone directory search performed? Were inquiries made of any neighbors, known associates or appropriate civil authorities who may have been aware of Ms. Mayea's whereabouts? Were any electronic communications (e.g., telephone calls or e-mails) attempted? In the absence of a complete showing of what efforts were undertaken to ascertain the whereabouts of Ms. Mayea, it would not be appropriate to conclude that she "could not be found or reached after diligent effort" within the meaning of 37 CFR 1.47(a):

and

Regarding requirement (4), the petition is accompanied by a declaration document signed by joint inventors Marrero Miragaya, Aguilera Barreto, Gonzalez Chavez,

Martinez Diaz, Torrez Cabrera, Cosme Diaz, Hernandez Marrero and Tamargo Santos on behalf of themselves and non-signing joint inventor Sarmiento-Mayea. However, further inspection reveals that the published international application nominates "Cosme Diaz, Carelia" as an inventor, whereas the declaration nominates "Karelia Cosme Diaz." The record appears to include no explanation of this discrepancy. In the absence of a suitable explanation and/or showing concerning this discrepancy, it would be inappropriate to conclude that the declaration filed on 20 January 2006 satisfies requirement (4). See MPEP 605.04(b) and 201.03(b).

Regarding **requirement (2)**, petitioner now presents a "Declaration" signed by Dr. Sonia Gonzáles Blanco, describing her renewed efforts to locate the whereabouts of Milesa Yeni Sarmiento Mayea, along with copies of internet searches she performed and along with a copy of the relevant page from the Ciudad de la Habana telephone directory. This showing satisfies requirement (2).

Regarding **requirement (4)**, petitioner states that "The declaration contains a typographical error in the spelling of the joint inventor, Carelia Cosme Diaz. Ms. Diaz has corrected the spelling of her name in the declaration, and has initialed and dated the change. Enclosed is the corrected declaration executed by each 37 C.F.R. 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor." In view of this explanation of the discrepancy in the spelling of the inventor's name, and pursuant to the practice described at MPEP 605.04(b), requirement (4) has now been satisfied.

#### DECISION

The petition under 37 CFR 1.47(a) is GRANTED.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at her last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 20 January 2006.



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United States Patent and Trademark Office

02 APR 2007

Commissioner for Patents  
United States Patent and Trademark Office  
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Lic. Milesa Yeni Sarmiento Mayea  
Josefina 221 apto # 1 e/ Jorge y Avellaneda  
10 de Octubre  
Ciudad Habana 10500  
CUBA

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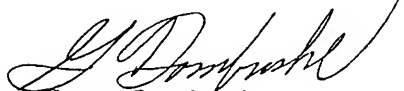
Dear Lic. Sarmiento:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3283. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Requests for information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1(800) 972-6382 (outside the Washington D.C. area).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

  
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## OFFICIAL GAZETTE NOTICE

### 37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of a joint inventor. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Milesa Yeni SARMIENTO MAYEA) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.63. The international application number is PCT/CU03/00020 and was filed on December 22, 2003 in the names of Maria Acelia MARRERO MIRAGAYA, Ana AGUILERA BARRETO, Lisette GONZALEZ CHAVEZ, Eduardo MARTINEZ DIAZ, Beatriz TORREZ CABRERA, Carelia COSME DIAZ, Milesa Yeni SARMIENTO MAYEA, Luciano HERNANDEZ MARRERO and Beatriz TAMARGO SANTOS for the invention entitled FORMULATIONS FOR THE RECTAL ADMINISTRATION OF THROMBOLYTICALLY-ACTIVE AGENTS. The national stage application number is 10/540,296 and has a 35 U.S.C. 371(c)(1), (2) and (4) date of January 20, 2006.